



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
October 23-24, 2007**

PRELIMINARY RECORD OF BOARD ACTION

Tuesday, October 23, 2007

The following is a preliminary record of Board actions taken at the October 23, 2007 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Rose Smith at (916) 323-9656 or e-mail: Rose.Smith@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meeting – Please see Page 16, O, Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

Oral Hearings

A. Homeowner and Renter Property Tax Assistance Hearings

There were no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings

B1. Edward E. Campbell, Sr., 361525–Dismissed

B2. Allen R. Yarborough and Donna M. Yarborough, 361479

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Appeal Denied Except abate late filing penalty for 2000 as conceded by the Franchise Tax Board.	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

B3. Rochelle M. Dorfler, 306426—Postponed to December 11, 2007

B4. Dana B. Fisher (Deceased) and A. Elizabeth Fisher, 346236

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination Ordered that Taxpayer be granted 30 days to submit post hearing documentation, the Franchise Tax Board 30 days to respond and the Appeals Division 30 days to prepare a recommendation to the Board.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

B5. Dante S. De Torres, 383704

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Appeal Denied A \$2,500.00 Frivolous Appeal penalty was ordered.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

Board Meeting Reconvenes at 1:30 p.m.**C. Sales and Use Tax Appeals Hearings**

C1. George Jeffrey Yurtin, 289814 (KH)—No Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied Approved Staff Recommendation	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

C2. J.D. Schwartz, Inc., 333352 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

C3. Hagop Vartanian, 255764 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

- D. Special Taxes Appeals Hearing
- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent**G1 Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Hearing Notice Sent – No Response
 1. Jennifer L. Martin, 304790, 312733 (UT)
 2. Pines Manufacturing, Inc., 307995 (OHA)

G2 Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
 1. Stephen R. Brook and Cheryl A. Brook, 353615
 2. Diana Jane K. Gabriel, 374767
 3. Juan J. Pulido and Maria G. Pulido, 377397
- Petitions for Rehearing
 4. Tony Jibilian, 346087

G3 Homeowner and Renter Property Tax Assistance Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
 1. Evangeline H. Araneta, 387899
 2. Shun Cheung, 380527
 3. Ruxanda S. Cosma, 387865

4. Felipa Curiel, 373095
5. Lusik Dagliyan, 394368
6. Delanya Davis, 339309
7. Clifton C. Fredell, 383629
8. Stephanie Christine Najera, 390547
9. Margo Norman, 378584
10. Millard Pete, 357349
11. H. N. Son, 377236
12. Ruby Taylor, 374607
13. Stacy Ugarte, 357396
14. Kham Vongrasamy, 377244

G4 Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes— except not participating in sub-items 3 and 5

- Redeterminations
 1. Price Pfister, Inc., 396520 (EAA)
 2. Anthony Seldon Brusa, 313010 (KH)
 3. Nortel Networks USA, Inc., 244752 (OHB)
 4. Douglas Gabriel, 388639 (GH)
- Relief of Penalty/Interest
 5. Alcatel USA Marketing, Inc., 397015 (OHC)
 6. Journey Education Marketing, Inc., 393557 (OHC)
- Denials of Claim for Refund
 7. Neoplan USA Corporation, 413987 (OH)

G5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes— except not participating in sub-item 7

- Credits and Cancellations
 1. Allen Karsy, 402442 (EAA)
 2. Southern California Windows, Inc., 415064 (EH)
 3. Ahmed Kamal Elhawary, 415376 (KHO)
- Refunds
 4. Lagraphico.com, Inc., 334389 (AC)
 5. Tom Malloy Corporation, 401435 (AA)
 6. Fireside Bank, 400448 (CH)
 7. Nortel Networks, Inc., 392163 (OHB)
 8. E I Industries, Inc., 416327 (GH)
 9. The Golden 1 Credit Union, 404503 (KH)
 10. Susan J. Fiscoe, 406646 (KH)
 11. World Fuel Services, Inc., 341991 (OHA)
 12. Neoplan USA Corporation, 413987 (OH)
 13. Chalker Family Trust DTD 4-21-93, 346309 (UT)
 14. Eclipse Advertising, Inc., 351110 (AC)
 15. Rosenheim Automation Systems Corporation, 416343 (GH)
 16. U.S. Foodservice, Inc., 407010 (OHB)
 17. Siemens Communications, Inc., 402807 (OHA)
 18. Regal Cinemas, Inc., 398833 (OHA)
 19. Americredit Financial Service, Inc., 404731(OHC)
 20. Virgin Mobile USA, LLC, 397567 (OHB)
 21. Strohl Systems Group, Inc., 389763 (OHB)

G6 Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

- Relief of Penalty
 1. John Hancock Variable Life Insurance Company, 414708 (ET) **"CF"**
 2. John Hancock Life Insurance Company, 414709 (ET) **"CF"**
 3. American Home Shield of CA, Inc., 415255 (ET) **"CF"**

G7 Special Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Credits and Cancellations
 1. Shell Oil Company, 416756 (MT)
- Refunds
 2. Shell Oil Company, 344643 (MT)

There were no items for the following matters:

G8 Property Tax Matters

G9 Cigarette License Fee Matters

G10 Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory**H1 Legal Appeals Matters**

- Petitions for Rehearing
 1. Orna Amzaleg, Asher Fadlon, and Isack Fadlon, 171769 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Prior decision revised to make additional adjustment, and petition for rehearing denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Hearing Request Withdrawn
 - 2a. Kevin Moller, 286866 (AS)
 - 2b. Martin Askgaard, 286870 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayers' Petitions Granted	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Cases Heard But Not Decided
 3a. Jalal Odish Zora, 203825 (FH)
 3b. Jalal Odish Zora, 203824 (FHB)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination The Board requested additional information.	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	

4. Robert Ingram, 260330 (EHC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

5. Thomas Vu, 309419 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Partially Granted/Denied	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

6. Codemagic, 309839 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Denied	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

H2 Franchise and Income Tax Matters

➤ Formal Opinion

1. Taiheiyo Cement USA Inc., 332855

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	

H3 Homeowner and Renter Property Tax Assistance Matters

There were no items for this matter:

H4 Sales and Use Taxes Matters

➤ Redeterminations

1. Mentor Corporation, 334785 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Granted	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

There were no items for this matter.

H6 Special Taxes Matters

➤ Redeterminations

1. Desert Grocers, Inc., 168288 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Granted	Ms. Yee Mr. Leonard Ms. Steel Ms. Chu Mr. Chiang/Ms. Mandel	Yes Yes Yes Yes Yes

➤ Relief of Penalty

2. Financial Indemnity Company, 238365 (ET) "CF"

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Petition Granted	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

➤ Denials of Claim for Refund

3. Paramount Petroleum Corporation, 169046 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Claim Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

4. Paramount Petroleum Corporation, 216272 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Claim Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

5. Paramount Petroleum Corporation, 303346 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Claim Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

6. Paramount Petroleum Corporation, 307629 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Claim Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

7. Paramount Petroleum Corporation, 349783 (MT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's Claim Denied	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for the following matters:

H7 Special Taxes Matters – Credits, Cancellations, and Refunds

H8 Property Tax Matters

H9 Cigarette License Fee Matters

H10 Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

I1 Property Tax Matters

There were no items for this matter.

I2 Offers-in-Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff Recommendations	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

1. Amirali Rajabali

2. John W. Strobel

3. Kenneth Man Kim

Adjourn - The meeting reconvened on Wednesday, October 24, 2007, at 9:30 a.m.



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**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
October 23-24, 2007**

PRELIMINARY RECORD OF BOARD ACTION

**Wednesday, October 24, 2007
(Revised 10/24/2007, 7:00 p.m.)**

The following is a preliminary record of Board actions taken at the October 24, 2007 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

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Board Meeting*

Oral Hearings

A. Homeowner and Renter Property Tax Assistance Hearings

There were no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings

These matters were scheduled on Tuesday, October 23, 2007.

C. Sales and Use Tax Appeals Hearings**C4. The Auto Store of Merced, Inc., 168200 (KH)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination	Ms. Yee	Yes
Ordered that Taxpayer be granted 30 days to submit post hearing documentation, the Department 30 days to respond and the Appeals Division 30 days to prepare a recommendation to the Board.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

C5. ABC-NACO, Inc., 167411 (OH)—Deferred**C6a. Stephen Charles Borkenhagen, 302079 (GH)****C6b. Eulipia, Inc., 300130 (GH)****C6c. Los Gatos Restaurants, Inc., 299490 (GH)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination	Ms. Yee	Yes
Ordered that Taxpayers be granted 30 days to submit post hearing documentation, the Department 30 days to respond and the Appeals Division 30 days to prepare a recommendation to the Board.	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

C7. J & H Jewelry Mart, Inc., 304042 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Final Board Determination	Ms. Yee	Yes
Postponed to November Sacramento Board Meeting	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

There were no items for these matters:

- D. Special Taxes Appeals Hearing
- E. Property Tax Appeals Hearings
- F. Public Hearings

These matters were scheduled for Tuesday, October 23, 2007:

- G. Tax Program Nonappearance Matters – Consent
- H. Tax Program Nonappearance Matters – Adjudicatory
- I. Tax Program Nonappearance Matters

Chief Counsel Matters

J. Rulemaking

- J1 Proposed Amendments to Sales and Use Tax Regulation 1521,
Construction Contractors

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Action	Ms. Yee	
The proposed amendments will be forwarded to the Office of Administrative Law	Mr. Leonard	
	Ms. Steel	
	Ms. Chu	
	Mr. Chiang/Ms. Mandel	

- J2 Proposed Amendments to Sales and Use Tax Regulation 1802,
Place of Sale and Use for Purposes of Bradley-Burns
Uniform Local Sales and Use Taxes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved proposed amendments as recommended by staff.	Ms. Yee	Yes
	Mr. Leonard	Yes
	Ms. Steel	Yes
	Ms. Chu	No
	Mr. Chiang/Ms. Mandel	Abstain

- J3 Regulation 5000 et seq, *Board of Equalization*
Rules for Tax Appeals

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No Action	Ms. Yee	
The proposed amendments will be forwarded to the Office of Administrative Law	Mr. Leonard	
	Ms. Steel	
	Ms. Chu	
	Mr. Chiang/Ms. Mandel	

There were no items for these matters:

- K. Business Taxes
- L. Property Taxes

M. Other Chief Counsel Matters

- M1 Request for Filing an Amicus Curiae Brief, *Wunderlich v. County of Santa Cruz*, Santa Cruz County Superior Court, Case No. CV154719

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Chief Counsel's Request	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

- M2 Status Report on Multistate Tax Commission Amicus Brief, *CSX Transportation, Inc. v. State Board of Equalization of the State of Georgia*, et al., Docket No. 06-1287, U.S. Supreme Court

- M3 Request for Filing an Amicus Curiae Brief, *Steinhart v. County of Los Angeles*, Court of Appeal, Second Appellate District, Case No. B190957

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Chief Counsel's Request	Ms. Yee	Yes
	Mr. Leonard	No
	Ms. Steel	No
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved Staff	Ms. Yee	Yes
Recommendations	Mr. Leonard	Yes
No Final Determination on sub-item N5, which is deferred to November	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

N1 Retirement Resolutions

- Louie Chapman
- Haven M. Kimura
- Shirley C. Konya
- Valerie Smith
- Irene P. Tse
- David B. Weld, Jr.

N2 Approval of Board Meeting Minutes

- August 14, 2007
- September 11-12, 2007

N3 Approval of 2008 Hazardous Substances Program Fees and Occupational Lead Poisoning Prevention Fee**N4 Approval of 2008 Board Workload Plan****~~N5 Sales Tax Prepayment Rate on Motor Vehicle Fuel, Diesel Fuel and Jet Fuel~~****O. Adoption of Board Committee Reports and Approval of Committee Actions****O1 Legislative Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the action therein.	Ms. Yee	Yes
For details see:	Mr. Leonard	Yes
http://www.boe.ca.gov/meeting/s/legcommittee.htm	Ms. Steel	Yes
	Ms. Chu	Yes
	Mr. Chiang/Ms. Mandel	Yes

P. Other Administrative Matters**P1 Executive Director's Report**

- a. Introduction of Anna Brannen, Chief Information Officer of the Technology Services Division
- b. Board of Equalization – Building Update

P2 Chief Counsel Report

There were no items for this matter.

P3 Deputy Director's Report

There were no items for these matters.

- a. Sales and Use Tax
- b. Property and Special Taxes
- c. **Administration**
 1. Department of Finance Response to BOE Unallocated Reduction Exemption Request
 2. CEA Salary Compaction Issues

Q. Closed Session

Adjourn